

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

HOWARD ELLIS,)	3:08-cv-00657-ECR-WGC
)	
Plaintiff,)	MINUTES OF THE COURT
)	
vs.)	DATE: August 21, 2012
)	
JAMES BENEDETTI, et al.,)	
)	
Defendants.)	
)	

PRESENT: EDWARD C. REED, JR. U. S. DISTRICT JUDGE

Judicial Assistant: Candace Knab Reporter: NONE APPEARING

Counsel for Plaintiff(s) NONE APPEARING

Counsel for Defendant(s) NONE APPEARING

MINUTE ORDER IN CHAMBERS

On May 14, 2012, the Magistrate Judge filed a Report and Recommendation (#187) recommending that Plaintiff's Motion for Partial Summary Judgment (#109), filed on November 16, 2011, be denied. Plaintiff filed Objections (#188) on May 24, 2012. Defendants did not respond.

The Objections are not well-taken and are overruled. The Court agrees with the Magistrate Judge that Plaintiff is not entitled to summary judgment on the failure to exhaust administrative remedies defense, which are the subject of Defendants' Motion to Dismiss (##101, 119). Defendants' exhaustion arguments and Plaintiff's opposition are fully addressed in the Magistrate Judge's concurrent Report and Recommendation (#186) and the Court's Order adopting the Report and Recommendation (#186). Furthermore, Plaintiff is not entitled to summary judgment on a claim which Plaintiff has not pleaded - there is no copy work claim presented in the Amended Complaint (#38). Finally, Plaintiff is not entitled to summary judgment because he has not produced any evidence and has otherwise failed to meet his initial burden of establishing the absence of a genuine issue of fact on each material issue in his case.

IT IS, THEREFORE, HEREBY ORDERED that the Magistrate Judge's Report and Recommendation (#187) is well taken and is APPROVED and ADOPTED.

IT IS FURTHER ORDERED that Plaintiff's Motion for Partial Summary Judgment (#109) is **DENIED**.

LANCE S. WILSON, CLERK

By /s/
Deputy Clerk